

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD JANUARY 19, 2005
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on January 19, 2005, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Sheriff Gary Butler, Chairman
Ms. Lisa Flores
Mr. Paul Felice, representing Director Dora Schriro
Sergeant Heriberto Zuniga
Deputy Tamatha Villar
Chief Jerry Sheridan
Chief Patricia Huntsman
Dr. Michael Polakowski
Assistant Director Rod Covey, representing Interim Director David Felix
Mr. Joseph Duarte
Chief Jack Harris
Mr. Theodore Campagnolo, representing Attorney General Terry Goddard

Members Absent:

Sheriff Clarence Dupnik

Staff in Attendance:

Tom Hammarstrom
Lyle Mann
Bob Forry
Lynn Larson
Ed Felix
Hop Bui
Gary Maschner
Ted Brandon
Steve Jacobs
Curt Milam
Marie Dryer
Sgt. Rick Watling

Sgt. Jim DeLung
Sgt. Crista McCarthy
Officer Mark Zbojnowicz
Carol Muskus
Lois Sherlock

Counsel for Board in Attendance:
Diana Stabler, Assistant Attorney General

Guest Roster:

Steve Primack, representing Edward Horvath
Edward Horvath, Bullhead City P.D.
Jan Madeya, ACIP
Bob Kaecker, retired NAU Chief
Rod Head, Bullhead City P.D.
Sam Weiss, CARLOTA
Jerry McCown, GCC LETA
Gary Burch, Yuma County S.O.
Dale Norris, attorney for Lucas Meister
Joe Cappelli, NARTA
James Palmer, Coolidge P.D.
Calvin Begay, NLETA
Andy Bacon, NARTA
Mike Bailey, Mesa LEA
Jon Heiden, AZ Police Corps
Rich Harper, Tucson P.D.
Gary Eisenga, Cottonwood P.D.
Terry Parish, SALETC
Rod Mendoza, Parker P.D.

A. CALL TO ORDER

Chairman Butler convened the meeting at 1:30 p.m.

B. INTRODUCTIONS

Executive Director Tom Hammarstrom introduced Chief Rod Mendoza of the Parker Police Department. Director Hammarstrom also presented a plaque to former Board member Sergeant Gary Eisenga of the Cottonwood Police Department in appreciation for his outstanding service to the Arizona law enforcement community while serving as a member of the Board.

C. CONSENT AGENDA

Approved unanimously, motion made by Mr. Campagnolo, seconded by Ms. Flores.

1. Minutes of the Regular Board meeting, held on November 10, 2004, were approved as written.
2. Minutes of the Charging Board meeting, held on November 10, 2004, were approved as written.
3. Minutes of the Charging Board meeting, held on December 15, 2004, were approved as written.
4. The next scheduled Regular Board meeting is Wednesday, March 16, 2005, 1:30 p.m. at AZ POST, 2643 E. University Drive, Phoenix, AZ.
5. Ministerial Actions:
 - a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Edward Aguilera	AZ Department of Gaming
Richard G. Beck	Goodyear Police Department
Larry Davis	AZ Department of Revenue
Rosemary Garcia	Surprise Police Department
Todd Hammerschmidt	AZ Dept. of Juvenile Corrections
Stuart D. Heller	Sahuarita Police Department
Kimberly A. Hinkle	Buckeye Police Department
Wesley D. Loyet	Paradise Valley Police Department
Michael Magnet	AZ Department of Gaming
Dennis C. Malone	AZ Department of Gaming
Mark C. Norwood	Buckeye Police Department
David G. Pratt	AZ Department of Corrections
Michael W. Thomas	Paradise Valley Police Department
Robert W. Sander, Jr.	Phoenix Police Department
Cory Turner	Surprise Police Department
Mary E. Turner-Allen	AZ Department of Corrections
Kenneth E. Tyson	AZ Department of Gaming
 - b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.

- c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.
- 6. Decertification Case Status Report Update – As of December 29, 2004, the Compliance and Standards Unit has a caseload of 124 active decertification cases. Nine cases are ready for initial presentation; 67 cases need further investigation; 7 cases are pending service of or response to a Notice of Complaint or Decision; 5 cases are pending hearing; 8 cases are ready for final action, and 28 cases are waiting for outside action, i.e., a criminal trial or civil service hearing.
- 7. Income and Expense Statement – November 2004

Funds as of November 1, 2004	\$1,160,944.82
CJEF Revenue	554,178.27
Expenditures/Encumbrances	(374,799.16)
Balance for November 30, 2004	\$1,340,323.93

D. REGULAR AGENDA

- 1. Information and discussion regarding issues surrounding the certification of peace officers who practice polygamy in violation of the Arizona Constitution

In 1987, AZ POST (then ALEOAC) voted to initiate proceedings against the certification of Marshal Sam S. Barlow of Colorado City for admitting the practice of polygamy in Arizona. After five years of legal action, the matter came before an Administrative Law Judge (ALJ) in 1992. The ALJ concluded that the Board did not demonstrate sufficient justification for action against Barlow's certification and recommended the action be dismissed. Since that time, POST Administrative Rules have been revised several times, however, no change has been initiated that would address the ALJ's 1992 conclusions.

A rule revision that forbids an officer from knowingly committing acts that violate the United States or Arizona Constitutions could offer the Board supportable cause to address concerns not only related to polygamy, but to a wide array of objectionable conduct on the part of Arizona peace officers.

Ms. Flores made a motion to direct staff to schedule a meeting of the Rules Committee to consider rule revisions relating to constitutional behavior by certified peace officers, seconded by Chief Harris, motion carried unanimously.

2. Statewide Domestic Violence Training Survey

The Governor's Commission to Prevent Violence Against Women has identified domestic violence as an area in which law enforcement training requires revision. Members of POST staff have worked with the Commission on these issues and are in agreement that both the current POST basic peace officer course and in-service training relating to domestic violence are in need of review and update.

The Commission, working in partnership with a number of stakeholders including the Department of Public Safety and Arizona State University's Morrison Institute, has identified the need to perform a training survey of law enforcement officers to determine current levels of knowledge and attitudes on the topic of domestic violence. The results of the survey will be used to design more effective training for POST certified officers.

The total cost of the project is estimated at \$60,000.00, the majority being provided through federal grants and the contributions of interested stakeholders. The Board has been asked to contribute \$15,000.00. This amount will serve as matching state funds for federal grants, and will ensure that all of the survey's objectives can be met.

Chief Harris made a motion to approve a \$15,000.00 grant to the Arizona Department of Public Safety for the purpose of conducting a statewide domestic violence survey, seconded by Mr. Campagnolo, motion carried unanimously.

3. Computer Based Training Program

Sergeant Crista McCarthy reported that the computer based training pilot program began on May 1, 2004, with 772 officers from around the state taking part in this program. As of August 31, 2004, 35% of those enrolled had signed on to the site. A survey was sent out to over 100 users, and the feedback was very positive. On December 2, 2004, enrollment was again analyzed and 37% of those enrolled had signed on. A survey was again sent out, this time to those participants who have completed their 8-hour commitment, and again, feedback was extremely positive. As of

January 1, 2005, the enrollment percentage was increased to 41%. As the program continues, staff is aiming to increase the participation level while continuing to receive feedback from the participants.

4. Certification Procedure for Police Corps Trainees.

The POST rules provide the following process for new hire applicants: (1) agency background, (2) agency appointment, (3) POST background audit, and (4) graduation from an authorized academy. By statute an academy may only be run by the state or a political subdivision of the state. A.R.S. §41-1822(A)(4). The Police Corps training is not an academy for POST purposes because it is not provided by a political subdivision of Arizona. However, staff has made a site visit to the Police Corps Regional Academy in Utah and found the curriculum to be substantially equivalent to the Arizona Basic Course.

POST Rule 110 sets forth the Basic Training Requirements. It provides that an applicant may become certified even if the person did not attend an Arizona academy if their training was substantially comparable to the Basic Peace Officer Course and the person functioned as a peace officer elsewhere. It is the "functioned as" requirement that is missing in Police Corps applicants. This Board previously waived the requirement to have "functioned as" a peace officer for the two prior Police Corps candidates. The current class has six applicants. Rather than deal with each applicant individually, the protocol set out below states the steps necessary for a Police Corps applicant to become certified by taking the waiver test. Approval of this protocol would act as a blanket waiver of the "functioned as" requirement for all future Police Corps applicants, beginning with Western Regional Police Corps class 2408. Because it waives a part of a rule, it requires the "103F findings," "that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized." A.A.C. R13-4-103(F).

Police Corps Applicant Protocol:

1. Agency background (entire selection process)
2. Agency appointment (POST Form A-1)
3. POST background audit (may be simultaneous to training)
4. Attend and successfully complete Police Corps basic training
5. Pass POST Waiver Test and Proficiencies
6. Receive certification

Chief Harris made a motion to approve the Police Corps Applicant Protocol as described. This motion includes the 103(F) findings to waive the “functioned as” requirement as a prerequisite for the waiver test for Police Corps candidates, motion seconded by Mr. Felice, motion carried unanimously.

5. Restricted, Full Authority Peace Officer Certification for Ms. Dawne Dolney, Investigator, Arizona Department of Gaming.

On August 4, 2004, Ms. Dolney successfully completed the full, seven-part written waiver exam. As of September 30, 2004, Ms. Dolney had successfully completed two of the three waiver proficiency requirements. She has completed firearms and defensive/pursuit driving. Ms. Dolney was unsuccessful in completing the POPAT requirement as part of the waiver process. The Arizona Department of Gaming has requested the Board grant Ms. Dolney a Restricted, Full Authority Peace Officer Certification.

Mr. Duarte made a motion to grant a Restricted, Full Authority Certification to Ms. Dawne Dolney. The certification would be restricted from being assigned to any duty likely to result in the need to apply physical force, and further, that the potential for such need is so remote as to be highly unlikely, and is authorized only for the duration of employment at the current agency, seconded by Mr. Campagnolo, motion carried unanimously.

E. LEGISLATIVE UPDATE

Deputy Director Mann reported that the Legislature went into session earlier this month, and discussed the following four bills:

S. B. 1039 - clarifies the issues surrounding the cross-certification of federal officers by sheriffs. In existing law, sheriffs have the ability to cross-certify federal officers by sending in proper paperwork to AZ POST. In the law, there is a list of agencies that are eligible for cross-certification. Due to changes in nomenclature at the federal level, some of the agencies no longer exist. This bill merely defines the federal offices. It has come out of Committee and is going forward. The bill has no impact on how POST does business.

H. B. 2149 – impacts the use of social security numbers by state agencies. There is a provision that excludes, if you are required by federal law from asking for and maintaining social security numbers, and POST would also like them to exclude if you are required by state law. There are several state laws that require us to get social security numbers

such as child support payments, etc., it impacts us as well as other regulatory boards, and we will try to amend that law as it goes forward.

H. B. 2202 – is a \$3,000,000.00 appropriation to complete the construction of the tactical training center at CARLOTA.

H. B. 2404 – will transfer responsibility for the Capitol Police to the Arizona Department of Public Safety.

F. SUMMARY OF CURRENT EVENTS

Executive Director Tom Hammarstrom commended Deputy Director Lyle Mann and Sgt. Jim DeLung for their outstanding work on the mental illness and developmental disability curriculum review process.

G. COMMITTEE UPDATE

The Basic Training and Facilities Advisory Group met on January 12th for the first time. Chief Jerry Sheridan, the Chairman of the Advisory Group, reported that the group requested input from users from around the state concerning their future training needs. Staff will gather this information and report back to the group at their next meeting in April.

H. REPORTS

1. Basic Training

SALETC – Commander Terry Parish reported that they currently have 42 recruits that are scheduled to graduate January 28th. On February 7th, 98 recruits are scheduled to start training, representing 11 different agencies. SALETC has started a new program to honor special classes. Class #04-3 was so exemplary, they will be the first class to be honored at graduation. SALETC has found that many recruits are not physically, mentally or emotionally prepared to enter the academy. Under the direction of Captain Harper, the Training Commander of the Tucson Police Department, an Orientation Day was created whereby all of the users were afforded the opportunity to send their potential recruits. The orientation class is designed to give potential recruits information and actually have them participate in some stressful activities. It also gives them the opportunity to do some physical fitness training ahead of time.

CARLOTA – Director Sam Weiss reported that Class #88 will graduate on January 21st with 18 recruits, representing 9 agencies. Class #89 started on January 9th with 20 recruits representing 10

agencies, and Class #90 will start on January 30th with approximately 35 recruits, representing 15 agencies.

GCC – Director Jerry McCown reported they recently started a class with 16 people, with 6 leaving after the first week. Class #51 has come back for the last half of their training with 20 recruits representing 6 agencies, and Class #52 has ten recruits representing 3 agencies. GCC is working with the City of Phoenix to start an academy class in March for Phoenix reserves to be held on the east side of the Valley.

NARTA – Commander Andy Bacon reported that Class #17 graduated on December 10th with 27 new officers representing 12 agencies. Class #18 started January 17th with 28 recruits representing 9 agencies, and Class #19 will begin in August. In cooperation with AZ POST, NARTA will be hosting a General Instructor School in March, a Basic Supervision School in May, a Crime Statistics School in June and a DRE School in July. They are in the concept phase of working on a joint project with Central Yavapai Fire to build a training facility in the Prescott Valley area in the hope of incorporating a driving track for NARTA.

NLETA – Sgt. Calvin Begay reported that their academy started on September 26th with 50 recruits; they are now down to 33 recruits, and will be graduating on February 4th.

COTA – Mr. Paul Felice reported that from July 1st through December 2004, 781 cadets reported to COTA; 485 graduated, 83 resigned, 68 were dismissed (none for disciplinary reasons), and 145 are still attending. They have formalized the monthly audits for the training records to evaluate compliance, and are finalizing the audit function for the academy. The nine-week Academy Pilot has been completed, and AZ POST can expect the lesson plans for the additional 80 hours to be presented for approval this month. In partnership with the Tucson Police Department, COTA sponsored a Spanish Immersion Class for criminal justice practitioners with 50 participants.

Mesa Law Enforcement Academy – Lt. Mike Bailey reported that Class #23 began October 11th with 35 recruits, with 29 remaining recruits, and will be graduating February 25th. They are currently recruiting for Class #24 which will start April 11th.

2. AZ Police Corps

Director Jon Heiden reported that 24 cadets graduated from the regional academy in Utah; two cadets went to Nevada, six cadets went to Arizona, and 18 cadets went to Utah. The six cadets that went to Arizona are now in FTO programs. The Department of Justice will soon name the official regional academies in Police Corps, and it is hoped that Utah will be one of them. Congress did approve their budget at \$14 million dollars.

3. Department of Corrections

No report.

4. Arizona Regional Community Policing Institute

Executive Director Mann reported that the 8-hour Executive and Prosecutor In-Car Camera training will be held in February in the Valley. There will also be practical and train-the-trainer programs for people involved in the In-Car Camera training. This is provided by the COPS office via the Gulf States Community Policing Institute.

Last year there were approximately 3,000 uniformed officers trained in anti-terrorism; a community-level course is also being offered. AZRCPI is also going to start a train-the-trainer program to deal with the issues of human trafficking.

AZRCPI is working with the Governor's Office to expand training in domestic violence to include a prosecutor that will provide technical assistance to organizations around the state. The Ethics Training For Implementing Ethical Organizations will be March 31st in the Valley. This training is for command-level personnel and above.

I. CASES: Consideration and possible action on the certified status of peace officers.

Chairman Butler requested a 10 minutes recess, from 2:35 p.m. to 2:45 p.m., in order for staff to prepare a telephonic conference call with Mr. Joel Boerwick, representing Mr. Ferguson.

Case #1 – Bruce E. Ferguson – Patagonia Marshal's Office – The Board considered comments from Assistant Attorney General Nancy Beck, representing AZ POST, and Mr. Joel Boerwick, representing Mr. Ferguson. Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Chief Huntsman, motion carried

unanimously. Ms. Flores made a motion to revoke peace officer certification, seconded by Chief Huntsman, motion carried unanimously.

Case #2 – Brian K. Hazlett – El Mirage Police Department – The Board considered comments from Assistant Attorney General Diana Stabler. *Mr. Campagnolo recused himself from voting and participation in this case.* Dr. Polakowski made a motion to dismiss the Complaint, seconded by Sgt. Zuniga, motion carried unanimously.

Case #3 – Edward L. Horvath – Bullhead City Police Department – The Board considered comments from Assistant Attorney General Nancy Beck, representing AZ POST, Mr. Steve Primack, representing Mr. Horvath, and comments from Mr. Horvath. Dr. Polakowski made a motion to deny the Findings of Fact and Conclusions of Law, seconded by Deputy Villar, motion carried unanimously.

Case #4 – Lucas Meister – Arizona Department of Public Safety – *Assistant Director Rod Covey recused himself from voting and participation in this case.* Mr. Felice made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Deputy Villar, motion carried unanimously. Mr. Felice made a motion to suspend peace officer certification for three years from September 17, 2003, motion failed for lack of a second motion. Dr. Polakowski made a motion to suspend peace officer certification for a period of one year beginning January 19, 2005, seconded by Mr. Felice, motion carried with one nay vote.

Case #5 – Michael J. Moser – Tucson Police Department – Ms. Flores made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment), seconded by Sgt. Zuniga, motion carried unanimously.

Case #6 – Brian K. Olsen – Maricopa County Sheriff's Office – Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Ms. Flores, motion carried unanimously.

Case #7 – Eloise M. Schwartzkopf – Phoenix Police Department – *Chief Harris recused himself from voting and participation in this case.* The Board considered comments by Assistant Attorney General Nancy Beck. Deputy Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Mr. Campagnolo, motion carried unanimously.

Case #8 – Brian L. Wolgamot – Cocopah Tribal Police Department – The Board considered comments from Assistant Attorney General Nancy Beck and Mr. Wolgamot. Mr. Felice made a motion to adopt the Administrative Law Judge's Decision, seconded by Sgt. Zuniga, motion carried unanimously. Assistant Director Covey made a motion to suspend peace officer certification for one year starting from June 1, 2004, seconded by Mr. Felice, motion carried with one nay vote.

J. CALL TO THE PUBLIC

Mr. Mike Palmer voiced his dissatisfaction with the Board's decision concerning the Lovelace case.

K. ADJOURN

Chairman Butler adjourned the meeting at 4:43 p.m.

Dated January 24, 2005

Lois Sherlock, Recording Secretary